

Larry E. Craig, Chairman
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No. 75

Legislative Notice

Editor, Judy Gorman Prinkey

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S. 2052 – The Intelligence Authorization Act for FY 1999

Approved by the Senate Select Committee on Intelligence on May 7, 1998. An original bill [S. 2052, S. Rept. 105-185]. On May 7, the bill was referred to the Senate Armed Services Committee for no longer than 30 session days.

NOTEWORTHY

- S. 2052 authorizes appropriations for intelligence activities and programs of the U.S. Government, the Central Intelligence Agency Retirement and Disability System (CIARDS), and the Community Management Account of the Director of Central Intelligence. The House passed its version, H.R. 3694, on May 7, 1998.
- The bill: contains the provisions of S. 1668, a bill encouraging the disclosure to Congress of certain classified information (passed the Senate on March 9, 1998, by a vote of 93-1; the House version does not contain any language on disclosure); authorizes the Attorney General to apply for a court order to install and use a pen register or "trap and trace device" to gather foreign intelligence or international terrorism information; and recommends significant funding increases for certain priorities.
- The Committee report: recommends certain improvements to the Intelligence Community's management and operation (including the initiation of and support for a number of programs to enhance the Community's capabilities to monitor the domestic threat of biological and chemical weapons proliferation); expresses concerns over proposals to ease export restrictions on encryption; and requires establishment of an information infrastructure security program and periodic assessments of these assets.
- Most of the Committee's specific recommendations are classified; such recommendations are provided in the classified schedule of authorizations and the classified annex which accompany the bill.

HIGHLIGHTS

The Committee conducted a detailed review of the Administration's three major intelligence budget requests for FY 1999: The National Foreign Intelligence Program (NFIP) of the Director of Central Intelligence (DCI); the Joint Military Intelligence Program (JMIP) of the Deputy Secretary of Defense; and the Tactical Intelligence and Related Activities (TIARA) of the Military Services. The Committee's recommendations are summarized below.

National Foreign Intelligence Program

- The Committee recommends decreasing lower-priority, poorly justified, or redundant programs while increasing funding for high-priority activities, including:
 - the “five C’s”: counter-proliferation; counter-narcotics; counter-terrorism; counter-intelligence; and covert action;
 - bolstering advanced research and development across the Intelligence Community to maintain the U.S. technological edge;
 - improving the skills and tools of clandestine service personnel;
 - developing new and innovative approaches to understanding “hard target” countries;
 - building up capabilities in the area of measurements and signatures intelligence; and
 - enhancing analytical capabilities as well as tools for conducting information operations.
- The Committee report highlights concerns over the precipitous decrease in personnel and funding which this President has requested over the past five years for the Department of Defense **Foreign Counterintelligence Program (DoD FCIP)**, when all the while, demands for information collected by counterintelligence have increased. To address this, the bill requires the Defense Secretary to submit a report comparing funding requests with the operational demands being placed on DoD's counterintelligence forces.
- Report language prohibits the transfer of funds to the **National Drug Intelligence Center (NDIC)** until 30 days after receipt of a report which was mandated by the FY 1998 Intelligence Authorization Act and due April 1, 1998. The Act required the Office of National Drug Control Policy (ONDCP) provide Congress detailed information on current and proposed efforts to structure the NDIC to effectively coordinate and consolidate strategic drug intelligence from national security and law enforcement agencies.
- The Committee increases the resources of the DCI's **Crime and Narcotics Center** to address the growing threat from foreign drug traffickers conducting illegal transactions in American financial systems.

- In an effort to increase the use of domestic **commercial imagery**, the Committee recommends that the Senate Armed Services Committee adopt a "buy America" legislative provision related to acquisition of commercial imagery, and further recommends an additional \$10 million authorization for purchase of commercial imagery.

Joint Military Intelligence Program (JMIP)

- The budget request included \$17 million, an increase of more than 100 percent over FY 1998, for program integration and support for the **Defense Airborne Reconnaissance Program**. However, the Committee notes that the budget request did not justify the need for such a dramatic increase, and so the Committee recommends an \$8 million reduction to this program from the budget request.
- Congress has appropriated more than \$100 million for FYs 1997 and 1998 combined, for **Dark Star**, the Low Observation air vehicle component in the High Altitude Endurance Unmanned Aerial Vehicle (HAE UAV) Advanced Concept Technology Demonstration program. The Administration has requested \$40.5 million for Dark Star for FY 1999. The Committee notes, however, that the Dark Star program remains plagued by program delays and is substantially behind the projected schedule. Believing that the unexpended prior year funds and a reduced FY 1999 authorization for appropriations will be sufficient to sustain the Dark Star ACTD through the upcoming Fiscal Year, the Committee recommends a \$10 million reduction for this program from the budget request.

Improving Intelligence Community Management and Operation

- The Committee has been concerned by the **proliferation of biological and chemical weapons** and the growing prospect of a terrorist attack against the United States using biological or chemical agents, especially in light of the 1993 World Trade Center bombing, the 1995 Aum Shinrikyo attack in the Tokyo subway, and the arrests in Las Vegas of persons suspected of possessing deadly anthrax agent. The Committee supports a number of programs to enhance the Intelligence Community's capabilities to monitor this threat.
- At the same time, the Committee cites its concern over public reports of a major interagency study revealing **widespread problems and deficiencies in the U.S. Government's counter-terrorism strategy and capabilities**, including intelligence programs and activities under the Committee's jurisdiction. The classified annex directs that the DCI and the Attorney General report to the Committee on measures they are taking or intend to take to address any shortcomings they have identified.
- Citing the need to have educated and trained counter-proliferation specialists to address the growing proliferation threat, the Committee amended the **National Security Education Act** to specify counterproliferation studies as a primary area for Federal support. The Committee's goal is to have at least one-third of the funds specified under

the Act be awarded as fellowships to graduate students and grants to institutions of higher learning in the field of counterproliferation training and studies.

Impact of Technology on the Intelligence Community

- The Committee states it will seek referral of any legislation regarding **encryption export** policy under its jurisdiction. The Committee supports the continued control of encryption products, and believes that a comprehensive strategy on encryption export policy that addresses national security concerns as well as the promotion of American commercial interests abroad can and must be developed. The report details the Committee's concerns that efforts to inappropriately ease or remove export restrictions on hardware and software **encryption** products will have national security implications.
- The Committee directs the DCI and the Secretary of Defense to perform a joint review to determine the proper role of the Intelligence Community in **critical infrastructure protection**, and sets out the areas which should be addressed. This report is to be provided to the Congressional Intelligence Committees no later than March 15, 1999. Last year's bill directed the DCI, the Secretary of Defense and the Director of the FBI to submit a report articulating a counterintelligence strategy for critical infrastructure protection. This report, however, did not provide a detailed counterintelligence strategy nor did it provide adequate information regarding current or planned counterintelligence activities.
- The Committee directs the DCI and the Secretary of Defense to formulate an Intelligence Community **information infrastructure security program** no later than March 15, 1999, to ensure the viability and effectiveness of the Intelligence Community's information infrastructure
- The Committee directs the DCI and the Secretary of Defense to perform regular, periodic assessments of the procedures, policies, and technologies implemented by the various intelligence agencies and offices to secure and protect their **information infrastructure**. These assessments of computer and telecommunications systems are to be performed on at least an annual basis. The Committee further directs that the Intelligence Community complete an initial series of assessments by the end of FY 1999.

The Disclosure to Congress Act of 1998

- The Disclosure to Congress Act will make Intelligence Community employees aware that they may disclose certain information to Congress, including classified information, that they reasonably believe is specific and direct evidence of:
 - a violation of law, rule or regulation;
 - a false statement to Congress on an issue of material fact; or
 - gross mismanagement, a gross waste of funds, a flagrant abuse of authority, or a substantial and specific danger to public health or safety.

COST

On May 14, 1998, the Congressional Budget Office offered this assessment of the costs of S. 2052:

"This estimate addresses only the unclassified portion of the bill. On that limited basis, CBO estimates that enacting S. 2052 would result in additional spending of \$174 million over the 1999-2003 period, assuming appropriation of the authorized amounts. The unclassified portion of the bill would affect direct spending; thus, pay-as-you-go procedures would apply. However, CBO cannot give a precise estimate of the direct spending effects because data to support a cost estimate are classified."

POSSIBLE AMENDMENTS

Shelby. To name the CIA Headquarters Compound the George H. W. Bush Center for Central Intelligence.

Kerrey. Regarding Intelligence reform initiatives.

ADMINISTRATION POSITION

No Statement of Administration Policy existed at press time.

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